

REMARKS

Claims 38-58 are pending in the application. By this amendment, claims 38, 39, 44, 48, 51, and 53 have been amended. The amendments to claims 39, 44, 51, and 53 correct clerical errors.

Applicant believes the amendments made herein add no new matter. Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

Interview Summary

The courtesy of the telephone interview granted to Applicant's attorney by Mr. Wilson, the Examiner in charge of this application, on May 29, 2009 and continued on June 3, 2009 is acknowledged with thanks and appreciation. During the interview, the Applicant's attorney and the Examiner discussed proposed amendments to the claims sent to the Examiner prior to the interview and made herein. During the interview, an agreement was reached that the proposed amendments to the claims overcome the Final Rejections discussed below.

Subsequent to the telephone interview on May 29, 2009, Examiner Wilson cited the US patents 5416948 to Worwag and 4268935 to Bessinger as being potentially relevant to claims 38 and 48 as amended. During the telephone interview on June 3, 2009, these two references were discussed. As pointed out at the interview, the Worwag '948 patent discloses a wet/dry vacuum cleaner with an actuator to switch the nozzle assembly from wet to dry mode and visa versa but the actuator was on the base and not on the handle as claimed in claim 38. In addition, Worwag '948 does not disclose a handle and further discloses an agitator that is in contact with the carpet surface in both the wet and dry modes. Thus, Worwag '948 does not disclose an actuator mechanism for selectively controlling the movement of the agitator between the first and second positions and does not disclose an actuator knob rotatably mounted on the handle and operably

connected to the actuator mechanism for selectively moving the agitator between the first and second positions, as required by claim 48. Examiner Wilson agreed that Worwag '948 does not disclose these elements.

The Bessinger '835 reference was also briefly discussed. Bessinger '835 discloses a floor cleaner in which a cleaning powder is dispensed onto a carpet surface and is suction with a conventional vacuum cleaner suction nozzle. A lever on base is connected to wiper blade that moves into contact and out of contact with rotatable drum to control the dispensing of the powder onto the floor. It was agreed that the Bessinger '835 reference was not relevant to any issue in the claims.

Subsequent to the interview on June 3, 2009, Examiner Wilson conducted a further search and cited the Monson US patent 5392490 and the Thomason et al. US patent 7185389. The Monson '490 reference discloses a carpet extractor that has only a wet suction mode. The opening 40 next to the wet nozzle 7 applies dry air to the surface to be cleaned. The items 18 and 20 on the handle are a vacuum blower switch and a pump switch for cleaning fluid, respectively. There is no dry suction mode and thus there is no switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa, and no actuator on the handle operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode and the wet suction mode as required by claim 38.

The Thomason et al. '389 reference discloses a wet/dry vacuum cleaner with one nozzle but it does not appear to convert between a wet mode and a dry mode (meaning, the nozzle will pick up wet and dry in a single mode). A electrical switch 24 on the handle is connected to the vacuum cleaner motor for turning the vacuum motor on and off. Thus, Thomason et al. '389 does not disclose a switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa and further does not disclose an actuator on the handle operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode and the wet suction mode, as required by claim 38.

Examiner Thomas further cited the Morgan et al. US patent 7178196, which is said to be a continuation of US Patent No. 6842942. Morgan et al. '196 discloses a wet/dry vacuum cleaner that has a switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa but the switch mechanism is on the base and not on the handle as required by claim 38. In addition, Morgan et al. 196 discloses an agitator that is movable between two positions but does not disclose an actuator knob rotatably mounted on the handle and operably connected to an actuator mechanism for selectively moving the agitator between the first and second positions as required by claim 48.

Thus, it is believed that the claims as amended patentably distinguish over all of the references cited by Examiner Wilson.

Rejections Under 35 U.S.C. § 102

Claims 38-58 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,438,793 to Miner et al. Further, claims 38-58 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent Nos. 6,230,362 and 6,286,181 to Kasper et al. These rejections are respectfully traversed.

The Miner et al. and Kasper et al. references, hereinafter collectively referred to as the "Miner/Kasper cited references" disclose substantially the same, if not exact, subject matter with respect to the subject matter of claims 38-58, and the remarks made by the Examiner in the Office Action for both grounds of rejection are identical. Thus, in the interest of brevity, the rejections will be addressed collectively below with the understanding that the remarks apply to both the 35 U.S.C. § 102(e) and 35 U.S.C. § 102(b) rejections.

The Miner/Kasper cited references disclose an upright extraction cleaning machine comprising a base module 14 that receives a facing 19 that defines a suction nozzle 34, which is disposed at a front portion of the base module 14 adjacent the surface being cleaned for recovering fluid therefrom. The suction nozzle 34 fluidly communicates with a tank assembly 50 mounted on the base module 14, and a vacuum source 40 draws working air through the tank

assembly 50 and the suction nozzle 34 so that the recovered fluid flows from the suction nozzle 34 into the tank assembly 50.

The extraction cleaning machine further comprises a detergent supply tank 870 mounted on the base module 14 and a water reservoir in the form of a flexible bladder 120 housed within the tank assembly 50 on the base module 14. Detergent and water from the tank 870 and the bladder 120, respectively, are mixed together to form a cleaning solution that is heated by an in-line heater 54 and distributed to the surface to be cleaned through fluid dispensing nozzles 100 positioned behind the suction nozzle 34. A trigger assembly 430 disposed on a handle assembly 16 that is pivotally mounted to the base module 14 selectively supplies the in-line heater 54 with the cleaning solution. Operation of the trigger assembly 430 displaces a valve member in a trigger valve 134 to dispense the cleaning solution through the valve 134 to the in-line heater 54.

The extraction cleaning machine further includes a brush 206 located behind the fluid dispensing nozzles 100. The rotatably mounted agitation brush 206 is adapted for floor-responsive adjustment by a floating brush assembly 400. With the floating agitation brush assembly 400, the cleaning machine can adapt to varying carpet naps or other inconsistencies on the surface being cleaned; the rotating brush 206 can drop below the normal floor plane, for example, to provide contact with a bare floor. Further, rotation of the handle assembly 16 to an upright, storage position raises the brush 206 from contact with the surface to be cleaned. The handle assembly 16 operates in conjunction with an elevator assembly 410 mounted on the base module 14 for raising and lowering the brush 206. The elevator assembly 410 comprises an actuating arm 418 that interacts with the handle assembly 16 and a forward arm 404 with a ramped surface 414 that interacts with brush guards 466 of the brush 206. When the handle assembly 16 rotates to the upright position, the handle assembly 16 pushes the actuating arm 418 forward, which, in turn, moves the forward arm 404 and ramped surface 414 against the brush guards 466, thereby raising the brush guards 466 and the brush 206 (see Figures 5 and 6). Rotation of the handle assembly 16 from the upright position reverses the operation to lower the brush 206 into contact with the surface to be cleaned.

As the Examiner is undoubtedly aware, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. As will be explained below, the references do not disclose every element in claims 38-58; therefore, the anticipation rejection must fail.

Amended claim 38 is an independent claim directed to a floor cleaner capable of cleaning both wet and dry floor surfaces. The floor cleaner comprises a base assembly including a nozzle assembly adapted to remove debris from a surface to be cleaned in a dry suction mode and a wet suction mode and further including a switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa. A handle is connected to the base assembly for manipulating the base assembly across a surface to be cleaned, and a recovery tank is carried by the handle. Further, an actuator on the handle is operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode and the wet suction mode.

Claim 38 has been amended to clearly state that the nozzle assembly has both a dry suction mode and a wet suction mode. The “either/or” claim language prior to this amendment intended to be inclusive of both modes, which is in concert with the nature of the other citations of the wet and dry suction modes in claim 38; nonetheless, Applicant has replaced the “either/or” language with “and” language to remove any ambiguity. Examiner Wilson agreed that this amendment overcame the rejection of claim 38 over the Miner/Kasper cited references.

Several differences exist between the Miner/Kasper cited references and claim 38. First, the Miner/Kasper cited references do not disclose a nozzle assembly adapted to remove debris from a surface to be cleaned in a dry suction mode and a wet suction mode. In the Miner/Kasper cited references, the suction nozzle 34 operates in a single, wet mode. The specifications specifically state that the suction nozzle is “adjacent the surface being cleaned for recovering fluid therefrom” (Miner et al. col. 3, ll. 53-54; Kasper et al. ‘362 col. 4, ll. 64-65; Kasper et al. ‘181 col. 6, ll. 49-50). The recovery of fluid, *i.e.*, a wet suction mode, is the only operation described for the suction nozzle 34 in the Miner/Kasper cited references. Further, the Miner/Kasper cited references do not disclose the claim elements of (1) a *switch mechanism* for

selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa or (2) an *actuator on the handle* operably connected to the *switch mechanism* for selectively positioning the nozzle assembly in the dry suction mode and the wet suction mode.

Applicant notes that the Office Action contains no discussion of the disclosure in the Miner/Kasper cited references as applied to the claim limitations regarding the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode and the wet suction mode. With respect to the actuator, the Examiner states that “the actuator in the handle is (430) with a cable” (Office Action, pp. 2 and 3). The component 430 in the Miner/Kasper cited references, however, is the above-described trigger assembly, which functions to operate a fluid valve to control fluid flow to an in-line heater and has nothing whatsoever to with operating a switch mechanism for selectively converting a nozzle assembly from the wet suction mode to the dry suction mode and visa versa. The trigger assembly 430 is not operatively connected in any manner to the suction nozzle 34, much less conversion of the suction nozzle 34 between wet and dry suction modes, in the references.

Second, the patents do not disclose a recovery tank carried by the handle. In the references, the tank assembly 50 functions as the recovery tank, and the tank assembly 50 is mounted to the base module 14. In particular, “the base module 14 includes a lower housing portion 15 and an upper housing portion 17, which together define an interior for housing components and a well 730 for receiving a tank assembly 50” (Miner et al. col. 3, ll. 45-48; Kasper et al. ‘362 col. 4, ll. 56-59; Kasper et al. ‘181 col. 6, ll. 41-44). The tank assembly 50 is also clearly shown as mounted to the base module 14 in Figure 3. It follows that the patents do not disclose the recovery tank carried by the handle, as required by claim 38.

As the Miner et al. and Kasper et al. patents do not disclose a nozzle assembly adapted to remove debris from a surface to be cleaned in a dry suction mode and a wet suction mode, a switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa, an actuator on the handle operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode and the wet suction mode, and a recovery tank carried by the handle, the patents do not anticipate claim 38,

and claim 38 is patentable over the Miner et al. and Kasper et al. patents. Further, claims 39-47, 55, and 56 depend from claim 38 and are, therefore, are not anticipated by and are patentable over the Miner et al. and Kasper et al. patents for at least the same reasons as claim 38.

Amended claim 48 is another independent claim directed to a floor cleaner for wet scrubbing and wet pick up. The floor cleaner comprises a base assembly including a nozzle adapted to remove moisture and debris from a surface to be cleaned and an agitator for agitating the surface to be cleaned. The agitator is movable between a first position wherein the agitator is spaced from the surface to be cleaned and a second position wherein the agitator contacts the surface to be cleaned to agitate the surface to be cleaned. An actuator mechanism selectively controls the movement of the agitator between the first and second positions, and an actuator knob rotatably mounted on a handle connected to the base assembly is operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions.

Claim 48 has been amended to more clearly define the second position of the agitator. Prior to this amendment, the second position was defined as adapted to agitate a surface to be cleaned. An agitator being adapted to agitate a surface to be cleaned inherently corresponds to the agitator contacting the surface to be cleaned at least during the agitation of the surface to be cleaned; thus, the second position of the agitator has been amended to be defined as contacting the surface to be cleaned.

The Miner/Kasper cited references do not disclose each and every element of claim 48. In particular, the Miner/Kasper cited references do not disclose an *actuator knob rotatably mounted on a handle* connected to the base assembly and operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions, wherein the agitator is spaced from the surface to be cleaned and contacts the surface to be cleaned, respectively. The brush 206 in the references is mounted for floating on the surface to be cleaned during use of the extraction cleaning machine; in this mode, the brush 206 is always in contact with the surface to be cleaned while being able to adapt to varying carpet naps or other inconsistencies on the surface being cleaned. When the extraction cleaning machine is not in use, the brush 206 may be raised so as to be spaced from the surface to be cleaned upon rotation

of the handle assembly 16 to the upright, storage position. Movement of the brush 206 to the raised position is accomplished by interaction of the handle assembly 16 with the elevator assembly 410 (described above) that is mounted to the base module 14. The elevator assembly 410 comprises arms and a ramped surface to accomplish movement of the brush 206, and these elements hardly amount to a knob. The Miner/Kasper cited references do not disclose any type of actuator knob for moving the brush 206 between positions spaced from the surface to be cleaned and contacting the surface to be cleaned, much less such an actuator knob that is rotatably mounted to a handle, as specified in claim 48.

In the Office Action, the Examiner states that “the actuator in the handle is (430) with a cable” (Office Action, pp. 2 and 3). Applicant has established above that the component 430 in the references, however, is the trigger assembly that functions to operate a fluid valve to control fluid flow to an in-line heater. The trigger assembly 430 has nothing whatsoever to with an actuator knob rotatably mounted on the handle connected to the base assembly and operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions. The trigger assembly 430 is not operatively connected in any manner to the brush 206, much less movement of the brush 206, in the references.

The Examiner also notes that “these position limitations [for the agitator] do not really claim any mechanism for accomplishing the positions the limitations do not even claim that the roller is moving on off the carpet [*sic*]” (Office Action, pp. 2 and 3). Claim 48 indeed calls for an actuator mechanism for selectively controlling the movement of the agitator between the first and second positions; a detailed description of a particular mechanism for controlling the movement of the agitator is not required in this claim. Furthermore, the limitations do claim that the agitator is movable relative to the surface to be cleaned (*i.e.*, “on off the carpet [*sic*]”) as the first position has been defined in claim 48 with the agitator being spaced from the surface to be cleaned, and the second position has been defined in claim 48 as amended with the agitator contacting the surface to be cleaned.

The Miner et al. and Kasper et al. patents do not disclose an actuator knob rotatably mounted on a handle connected to the base assembly and operably connected to the actuator

mechanism for selectively moving the agitator between the first and second positions, wherein the agitator is spaced from the surface to be cleaned and contacts the surface to be cleaned, respectively, as required by claim 48 and thus do not anticipate claim 48. Claim 48 is therefore patentable over the Miner et al. and Kasper et al. patents. Further, claims 49-54, 57, and 58 depend from claim 48 and are, therefore, are not anticipated by and are patentable over the Miner et al. and Kasper et al. patents for at least the same reasons as claim 48.

For at least the reasons discussed above, all claims remaining in the application are believed allowable. Early notification of allowance is respectfully requested. If there are any remaining issues that the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,

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Date: June 5, 2009

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